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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,103	11/27/2001	Phillip Kent Freyman	PD05982AM	3642

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EXAMINER

PERVEEN, REHANA

ART UNIT PAPER NUMBER

2116

DATE MAILED: 06/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/997,103

Applicant(s)

FREYMAN ET AL.

Examiner

Rehana Perveen

Art Unit

2116

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 39-47 is/are allowed.
- 6) ☒ Claim(s) 32 and 48 is/are rejected.
- 7) ☒ Claim(s) 33-38 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

PD

Response to Amendment

Allowable Subject Matter

Claims 39-47 are allowed over the prior art of record.

Claims 33-38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 04 May 2005 have been fully considered but they are not persuasive with respect to claims 32 and 48. Applicant's arguments filed with respect to claims 33-47 have been fully considered and are persuasive. The previous rejections of claims 33-47 have been hereby withdrawn, and the rejections to claims 32 and 48 are maintained, repeated below for convenience.

With respect to applicants' argument that Pugh does not address the field of power management, backup power supplies, or notification thereof, the examiner agrees. However, applicants' argument is moot to the extent it has been claimed in claims 32 and 48. Specifically, claims 32 and 48 do not mention any power management, backup power supply, or notification thereof. Therefore, applicants' argument is moot with respect to claims 32 and 48.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 32 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark, Patent No. 6,678,528, in view of Pugh et al, Patent No. 5,414,754.

As to claim 48, Clark teaches delivering messages in a communication network (PSTN network) including an access unit (Service Node 70), the access unit including a storage unit (SMSC 70), the access unit coupled to at least one user device, receiving a message from the communication network by the access unit, storing the received message in the storage unit, detecting a state of a user device by the access unit, and providing the received message to the user device in response to the detection of the state (col. 5 line 32 – col. 6 line 49 and col. 7 lines 38-57).

However, Clark does not expressly teach the detection state being an off-hook state. Pugh et al teach detecting an off-hook state of a user device and providing a received message to the user device in response to the detection of the off-hook state (col. 6 lines 8-19).

It would have been obvious for one of ordinary skill in the art at the time of the invention to combine the teachings of Clark and Pugh et al because both are commonly

directed to the telephony network environment, and Pugh et al's providing the received message in case of off-hook state detection, when incorporated into Clark, would have enabled Clark to achieve added proactive service thus increasing overall system efficiency.

Claim 32 is directed to the system implementing the method of claim 48. Clark and Pugh et al, in combination, teach the method as set forth in claim 48. Therefore, Clark and Pugh et al, in combination, also teach the system as set forth in claim 32.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rehana Perveen whose telephone number is 571-272-3676. The examiner can normally be reached on Monday - Thursday 8:00am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on 571-272-3670. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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